

APPEAL NO. 022014
FILED SEPTEMBER 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 24, 2002. Hearing officer 1 determined that the respondent (claimant) had not sustained a compensable injury on _____, and failed to give timely notice of his alleged injury to the employer and did not have good cause for failing to do so. On July 16, 2002, another hearing officer (hearing officer 2) issued "COMMISSION ORDER FOR ATTORNEY'S FEES" (order) approving all of the attorney's fees and 5.50 hours out of 6.60 hours of requested legal assistant fees for a total of \$1,437.00 out of \$1,492.00 requested fees. The only items not approved as requested was 1.10 hours of legal assistant time on April 4, 2002, for "Draft Letter" and "Telephone Conference." The written justification had two items, both dated April 4, 2002, for the draft letter "Provider" and two items, both dated April 4, 2002, for a telephone conference with "Provider." Hearing officer 2 disapproved one of the draft letter requests and one of the telephone conference as a "Duplicate Service."

The attorney explained in his appeal that the two communications were "required to communicate with two separate medical providers regarding Claimant's records," and requested additional fees in the amount of \$55.00 be awarded.

DECISION

Reversed and Rendered.

Although we note that the attorney certainly did not make clear in his written justification that the draft letters and telephone conferences were with two separate medical providers and hearing officer 2's order was not incorrect based on the information that he had before him, we are satisfied that, in fact, there was communication with two different medical providers and that had hearing officer 2 had that information available, he would have approved the additional fees. We would caution attorneys in making their written justification that where it appears that duplicate services are being rendered to add sufficient justification why those services were in fact not duplicative.

Hearing officer 2's order is reversed and we render a new decision awarding the attorney an additional 1.10 hours of legal assistant time and an additional \$55.00 in attorney fees.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Veronica Lopez
Appeals Judge